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International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning Communication No. 2209/2012*, **

Submitted by:	Amarasinghe Arachchige Simon Amarasinghe (represented by counsel, Asian Legal Resources Centre and REDRESS)
Alleged victims:	Amarasinghe Arachchige David Amarasinghe and Amarasinghe Arachchige Simon Amarasinghe
State party:	Sri Lanka
Date of communication:	27 September 2012 (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 26 November 2012 (not issued in a document form)
Date of adoption of Views:	13 July 2017
Subject matter:	Failure to properly investigate, prosecute and ensure redress for the alleged arbitrary detention and torture of the victim by police officers, resulting in his death.
Procedural issues:	State party's failure to cooperate.
Substantive issues:	Right to life; torture, cruel, inhuman or degrading treatment or punishment; right to liberty and personal security
Articles of the Covenant:	6, 7 and 9, read alone and in conjunction with 2 (3)
Articles of the Optional Protocol:	2 and 5

* Adopted by the Committee at its 120th session (3-28 July 2017).

** The following members of the Committee participated in the examination of the present communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Ahmed Amin Fathalla, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Bamariam Koita, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

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1.1 The author is Amarasinghe Arachchige Simon Amarasinghe, a national of Sri Lanka born in 1963.[1] He submits the complaint on behalf of himself and his deceased brother, Amarasinghe Arachchige David Amarasinghe, also a Sri Lankan national, born in 1957.[2]

1.2 The author claims that the State party violated his brother's rights under articles 6, 7 and 9 because he was subjected to torture and severe ill-treatment by two police officers, resulting in his death. He also claims that the State party has violated his brother's and his own rights under article 2 (3), read in conjunction with articles 6, 7, 9, of the International Covenant on Civil and Political Rights by halting the investigation into the circumstances of his brother's death and the prosecution of the alleged perpetrators. The Optional Protocol to the Covenant entered into force for Sri Lanka on 3 January 1998. The author is represented by counsel.

The facts as submitted by the author

2.1 The author submits that, on 13 August 2010 at 8.30 p.m., the author's brother was arrested by two officers of the Kirindiwela police. According to an eyewitness, his brother was subjected to severe ill-treatment by the police officers upon arrest. He was hit with a rod and held by the chin and the neck and his head was struck twice against the door of the police vehicle. He was then put into a police vehicle, in which he was severely kicked and his head beaten with iron rods.

2.2 The author maintains that, according to the police, his brother was taken immediately to the Radawana hospital after his arrest, then to the Gampana hospital, and finally to the National Hospital in Colombo, where he died in the morning of 14 August 2010.

2.3 The Kirindiwela police submitted a report dated 14 August 2010 to an "unofficial magistrate".[3] In the report, the police stated that the author's brother had died from injuries allegedly received while attempting to jump out of a moving police vehicle, after being arrested by two police officers for being drunk and obstructing traffic. The police also referred to a statement by an alleged eyewitness whose testimony was consistent with that of the police. The author explains that the witness had several criminal cases pending against him filed by the Kirindiwela police and that his credibility is seriously called into question.

2.4 On 14 August 2010, the unofficial magistrate conducted an investigation into the matter. The author submits that at least two witnesses testified before the unofficial magistrate that his brother's fatal injuries had been a result of the police assault and not due to an accident. After recording the statements of several witnesses, the unofficial magistrate ordered a post-mortem examination and that the case be transferred to the Magistrate's Court of Pugoda.

2.5 On 15 August 2010, the body of the author's brother was examined by a consultant judicial medical officer, who issued a post-mortem report.[4] The report revealed the following injuries on the body of the victim: (a) scalp contusion over the right side of the head; (b) multiple fractures on the right side of the skull involving right temporal, parietal and occipital bones over an area of 18 x 13 cm; (c) torn dura mater; (d) subdural haemorrhages over the right side of the brain associated with surface contusions and laceration in the right temporal lobe; (e) other contusions and fractures on the victim's head, skull and brain; (f) abrasions measuring 3 x 3 mm on the upper front of the nose and the left side of the forehead; and (g) abrasions and contusions on the lateral aspect of the right elbow (with bleeding into the soft tissue), the inner aspect of the left elbow, the upper back of the left shoulder, the middle of the lower back and the middle of the chest (with bleeding into the soft tissue).

[1] The exact date of the author's birth is not provided.

[2] The exact date of the victim's birth is not provided.

[3] The author explains that, under the Administration of Justice Act 1973, sect. 37, the Justices of Peace may be appointed to the role of "unofficial magistrate", by which they have all the power of a magistrate except the power to hear, try or determine civil or criminal cases.

[4] The author provides the post-mortem report No. 993/08/2010, dated 15 August 2010.

2.6 The report concluded that the victim's injuries had been caused by blunt trauma and the injury pattern was consistent with "a back fall hitting the right side of the head on a hard surface". It also stated that there was "no evidence of injuries of intentional violence". A toxicology report, issued by a forensic laboratory and included in the post-mortem report, stated that the blood sample taken from the victim did not contain any alcohol.[5]

2.7 On 18 August 2010, inquest proceedings were initiated before the Magistrate's Court of Pugoda. The magistrate records in his sworn statement to the Court of Appeal that on that day several witnesses gave evidence that was inconsistent with that of the police officers on a number of aspects, including the place of the alleged arrest of the author's brother and the manner in which he had received his fatal injuries.

2.8 On the basis of the "compelling evidence" that he had heard, the magistrate made an order to remand in custody the two police officers involved in the assault of the author's brother. He stated that his decision was bona fide, both in the light of the duty of the police to prosecute its own officers and having regard to the concerns and fears expressed by witnesses during the inquest proceeding of the possibility of their being victimized by the police for identifying the offenders.

2.9 On 23 August 2010, the Kirindiwela police filed a further report to the magistrate highlighting the statements made by the Colombo Judicial Medical Officer and the Medical Officer at the Radawana Hospital that there had been no indications on the body of the author's brother of any assault using any weapon. The magistrate noted in his sworn statement to the Court of Appeal that the emphasis on this point in the medical officers' statements was "somewhat unusual". On the same day, the magistrate refused an application for bail made by the two police officers. The order was appealed to the High Court of Gampaha twice, and two new applications for bail were made to the High Court. All of the applications were rejected following a hearing of the facts and despite the Attorney General not opposing bail.

2.10 On 9 September 2010, the post-mortem report was submitted to the magistrate, who considered "rather unorthodox" the fact that the judicial medical officer had stated in the cause of death section of the report that the injury patterns were "suggestive of a back fall hitting the right side of the head on a hard surface" and that there was no evidence of injuries of intentional violence. In addition, he considered that the external injuries on the victim's body listed in the post-mortem report and the confirmation that there had been no alcohol in the victim's system at the time of death were not consistent with the police officer's version of events. The judicial medical officer was called to give evidence before the magistrate, but did not present himself, supposedly on medical grounds. After a number of failed attempts to secure his presence, the Court was compelled to rely on an affidavit submitted by him in lieu of oral testimony.

2.11 On 22 December 2010, the magistrate, in the light of what he described as the "background of compelling and direct eyewitness testimony as well as medical evidence which at its best was inconclusive", concluded that the evidence was suggestive of a homicide and ordered the commencement of a non-summary inquiry against the two police officers, and their continued remand in custody.

2.12 On 7 February 2011, charge sheets were filed by the Kirindiwela police against the two police officers. On 28 February 2011, the Solicitor General, on behalf of the Attorney General, wrote to the magistrate, through the officer-in-charge of the local police station, to inform him that he intended not to proceed with the criminal prosecution of the police officers allegedly involved in the ill-treatment of the author's brother.[6]

[5] The author provides the toxicology report No. TRA/179/2010, dated 27 August 2010, performed by the Institute of Legal Medicine and Toxicology (Colombo), which was included in the post-mortem report No. 993/08/2010.

[6] The author explains that the Solicitor General of Sri Lanka assists the Attorney General. The author refers to the Record of Proceedings and Order, dated 3 March 2011, which states that "[t]he magistrate must be informed that no further legal action is intended [to be] taken against the following accused and that they could be discharged. The steps taken by the magistrate's Court after reporting on this to the Court should be informed to me within 14 days from the receipt of this letter in the

2.13 On 3 March 2011, an application for the discharge of the police officers was made on the basis of the Solicitor General's letter. The magistrate dismissed the application, holding that the Code of Criminal Procedure does not indicate a power to discharge an accused on the basis of the Attorney General's advice before calling the evidence in the case.[7] The author explains that, under that Code, an accused may only be discharged on the order of the Attorney General after he or she is sent to trial before the High Court or at any time during the trial before the High Court.[8]

2.14 On 8 March 2011, the counsel for the accused again presented submissions to the magistrate seeking the discharge of the accused on the basis of the Attorney General's determination. The magistrate again refused to make the order and decided to proceed with the inquiry.[9]

2.15 On 31 March 2011, the non-summary inquiry commenced. The Senior State Counsel appearing on behalf of the prosecution made submissions for the discharge of the police officers from the proceedings. The magistrate refused to make the order and fixed the examination of the case for 28 April 2011.

2.16 On 20 April 2011, further written submissions were made by the author's representatives. However, by that time, the accused had already been released without condition a few days earlier,[10] contrary to the magistrate's order.[11]

2.17 On 31 April 2011, the police officers appealed the magistrate's order to continue with the non-summary inquiry by way of a writ to the Court of Appeal of Sri Lanka.[12] The police officers complained that the proceedings against them by the magistrate had been unlawful and sought orders quashing the proceedings in the Magistrate's Court and prohibiting further proceedings. The author explains that the petition failed to refer to a number of important facts in the case and did not include a number of documents from the case records, including the witness evidence implicating the police officers in the assault on his brother and the failure of the judicial medical officer to appear before the magistrate during the inquest.

2.18 On 3 June 2011, the Court of Appeal held an interim hearing, at which the counsel for the accused police officers, the officer in charge of the Kirindiwela police station and the Attorney General were present. The author submits that neither he (fourth respondent) nor the magistrate (third respondent) were present at the hearing. The Attorney General, who was a respondent to the petition, supported the grant of the orders sought by the accused police officers.

2.19 At the hearing, the Court of Appeal ordered an interim stay of the proceedings before the magistrate until final determination of the application before the Court of Appeal, and the unconditional release of the two police officers. The author submits that the Court's reasons referred only to the information presented by the petitioners and did not make reference to the evidence contrary to the police officer's version of events given before the magistrates.

2.20 Following notification of that order, the author and the magistrate filed notices of objection to the Court of Appeal and requested it to dismiss the petition lodged by the police officers.

2.21 On 21 April 2017, the author informed the Committee that the case was still pending before the Court of Appeal. He also submitted that on two occasions the case was taken for argument but postponed owing to a change of judges. According to the author, there are no remedies available to accelerate the pace of the proceedings in the matter.

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attached format".

[7] The author refers to the Record of Proceedings and Order, dated 3 March 2011.

[8] The author refers to the Criminal Procedure Code, s.192 and s.194.

[9] The author refers to the Record of Proceedings and Order, dated 8 March 2011.

[10] The author does not provide the exact date.

[11] The author refers to the Record of Proceedings and Order, dated 8 March 2011.

[12] The author refers to the Amended Petition to Court of Appeal, dated 31 May 2011. He also indicates that the case number is 338/2011.

The complaint

3.1 The author claims that his brother's rights under articles 6, 7 and 9 of the Covenant, taken alone and in conjunction with article 2 (3), of the Covenant have been violated by the State party.

3.2 The author claims that the State party violated article 6 of the Covenant, since his brother died while in the custody of the Sri Lankan police. The author contends that his brother succumbed to an injury caused as the direct result of being severely beaten by police officers immediately after his apprehension and in the police vehicle. The author submits that the burden of proof rests on the authorities of the State party, which should have provided a plausible explanation for the cause of his death. The author indicates that the version advanced by the police in the proceedings before the magistrate that the victim inflicted self-harm under the influence of alcohol is not supported either by the testimony of eyewitnesses or by the results of the autopsy. Regarding the "inconclusive" cause of death suggested by the judicial medical officer, the author submits that it was only "tentative" and uncorroborated by any other factual element of the case. He adds that, according to the magistrate, the evidence of other injuries on the body of the victim through significant doubt on his conclusion and that, despite numerous summonses, the judicial medical officer failed to appear in the inquiry proceedings before the magistrate.

3.3 The author also claims a violation of article 7 of the Covenant. He sustains that grave injuries were found on his brother's body, as confirmed by the results of the autopsy. The injuries were consistent with the evidence of the eyewitness who reported that his brother had been beaten all over his body, and that his head had been struck heavily against the police van. The author explains that the number and type of injuries are not consistent with the police officer's contention that his brother suffered injuries after jumping from a van. The author also refers to the magistrate's opinion that there was significant doubt that the injuries were consistent with the judicial medical officer's conclusion that there was no evidence of injuries of intentional violence.

3.4 The author further claims a violation of the rights of his brother under article 9. He sustains that there were no legal grounds for his brother's arrest and detention and that the police officers could not demonstrate that his detention was "reasonable" or "necessary" in the circumstances.

3.5 The author submits that, according to the statements made by the police officers, his brother was arrested for being under the influence of alcohol and for obstructing traffic. However, the toxicology report showed that there was no basis on which an objective observer would have concluded that the victim had been drunk at the time of arrest. The author adds that no eyewitness evidence supported the police officers' allegation that his brother had been obstructing traffic at the time of arrest.

3.6 The author claims that the obstruction of the investigation and the absence of any prosecution in the present case constituted a violation of article 2 (3) of the Covenant, read in conjunction with articles 6, 7 and 9. He submits that the investigation and prosecution have been halted through the intervention of the Attorney General, which deprived him of any effective remedy. The author considers that the Attorney General relied on a highly selective view of the evidence and actively interfered with the inquiry led by the magistrate, in spite of the evidence favouring continuing investigation and prosecution.

3.7 The author submits that, while proceedings are still pending before the Court of Appeal, this should not be considered an effective and available domestic remedy under the meaning of article 2 of the Optional Protocol, and that he should therefore not be expected to exhaust domestic remedies while the State party does not comply with its responsibility.

3.8 The author also submits that no remedy is available for him to challenge the decision of the Attorney General not to take any further action. Referring to the Committee's jurisprudence, he alleges that court proceedings before the superior courts in Sri Lanka, such as the Court of Appeal, are likely to be unduly prolonged,[13] while recognizing on

[13] See communications No. 1250/2004, *Lalith Rajapakse v. Sri Lanka*, Views adopted on 14 July 2006, para. 9.4; and No. 1432/2005, *Gunaratna v. Sri Lanka*, Views adopted on 17 March 2009, para. 7.5.

numerous occasions that certain violations, including the violation of articles 6 and 7, require "prompt investigation by States parties to the Covenant".[14] The author further refers to the Committee's position in Sri Lankan cases where it stated that expedition and effectiveness are particularly important in the adjudication of cases involving torture.[15]

3.9 The author submits that impunity arises because of the susceptibility of the judicial system to outside interference. He indicates that the Committee against Torture has expressed its concern at "numerous reports concerning the lack of independence of the judiciary" in the State party.[16]

3.10 The author also submits that this is not a complex case, and significant evidence has been collected by the magistrate leading him to the conclusion that there is strong evidence on which to charge the accused police officers, despite the Attorney General's decision not to pursue further action. The author further submits that, in January 2012, the Secretary to the Minister of Justice confirmed that there were 650,000 cases pending in the Sri Lankan judicial system as a whole, and referred to the urgent need for reform to reduce the backlog.

3.11 The author requests the Committee to order the State party to provide him with appropriate remedies in accordance with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

3.12 The author also requests four specific remedies: (a) that appropriate guarantees of non-repetition of similar human rights violations are taken by the Sri Lankan authorities, in particular through the establishment of an independent investigation agency to deal with violent crimes allegedly committed by the police, as recommended by the Committee against Torture and other international and domestic actors;[17] (b) that a full and thorough investigation into the circumstances of his brother's unlawful arrest, torture and death and that criminal proceedings is carried out with independence and autonomy against those responsible for such violations; (c) satisfaction to be given by means of a public apology by the Attorney General;[18] and (d) that adequate compensation encompassing material and moral damages is awarded to him as his brother's close relative and family's breadwinner.[19]

Lack of cooperation from the State party

4. On 26 November 2012, 17 June 2013, 30 September 2013, 19 November 2013 and 12 May 2017, the State party was requested to submit its observations on the admissibility and merits of the communication. The Committee notes that this information has not been received. It regrets the State party's failure to provide any information on the admissibility and/or merits of the author's claims. It recalls that, in accordance with article 4 (2) of the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and indicating the measures, if any, that have been taken by the State to remedy the situation.

Issues and proceedings before the Committee

Consideration of admissibility

5.1 Before considering any claims contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol to the Covenant.

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[14] See communication No. 328/1988, *Zelaya Blanco v. Nicaragua*, Views adopted on 20 July 1994, para. 10.6. See also, communication No. 1057/2002, *Kornetov v. Uzbekistan*, Views adopted on 20 October 2006, para. 7.1, and Human Rights Committee general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 14.

[15] See *Lalith Rajapakse v. Sri Lanka* (note 13 above), para. 9.5.

[16] See CAT/C/LKA/CO/3-4, para. 18.

[17] Ibid.

[18] The author refers to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para. 22 (e).

[19] Ibid, para. 20.

5.2 The Committee has ascertained, as required by article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another international procedure of investigation or settlement.

5.3 Regarding the exhaustion of domestic remedies, the Committee recalls that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights brought to the attention of its authorities, particularly violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations.[20] The Committee notes the author's submission that the Attorney General, who is the head of the prosecutorial authorities, has demonstrated the intention to block the investigation of the crime and eventual prosecution of the accused police officers, despite the significant evidence pointing to the commission of a crime against his brother. It also notes the author's submission that no remedy is available to him to challenge the decision of the Attorney General not to take any further action.

5.4 The Committee further notes the author's submission that court proceedings before the Court of Appeal have been pending since 2011, that no remedies are available to accelerate the pace of the proceedings in the present matter and that any remedy that might theoretically be provided in the Court of Appeal would be unduly prolonged. The Committee also recalls its jurisprudence that, when a complaint against ill-treatment contrary to article 7 is lodged, a State party is under a duty to promptly and impartially investigate it.[21] The Committee notes that, in spite of four reminders having been addressed to the State party, no information or observations challenging the admissibility of the communication have been received. In the circumstances, the Committee finds that it is not precluded from considering the communication under article 5 (2) (b) of the Optional Protocol.

5.5 The Committee considers that the author's allegations under articles 6, 7 and 9, read alone and in conjunction with article 2 (3) of the Covenant, have been sufficiently substantiated for the purposes of admissibility and proceeds with its consideration on the merits.

Consideration of the merits

6.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as required under article 5 (1) of the Optional Protocol.

6.2 The Committee notes the author's statements that, on 13 August 2010 at 8.30 p.m., his brother was arrested by two police officers of the Kirindiwela police; that, according to an eyewitness, he was hit with a rod and held by the chin and the neck, that his head was struck twice against the door of the police vehicle and that he was then put into a police vehicle, in which he was severely kicked and his head beaten with iron rods; and that, on 14 August 2010, he died at the National Hospital in Colombo.

6.3 The Committee also notes the author's submission that, according to the Kirindiwela police, his brother had died from injuries allegedly received while attempting to jump out of a moving police vehicle, after being arrested by the two police officers for being drunk and obstructing traffic.

6.4 The Committee takes note of the author's statement that the magistrate considered that the external injuries on the body of his brother and the confirmation in the toxicology report that there had been no alcohol in the blood sample of the victim at the time of his death were not consistent with the police officer's version of events. It also notes the magistrate's conclusion that the evidence before him was suggestive of a homicide and that, nonetheless, the Solicitor General decided not to proceed with the criminal prosecution of the police officers.

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[20] See, for example, communications No. 2157/2012, *Belamrania v. Algeria*, Views adopted on 27 October 2016, para. 5.3; and No. 1791/2008, *Boudjemai v. Algeria*, Views adopted on 22 March 2013, para. 7.4.

[21] See *Kornetov v. Uzbekistan* (note 14 above), para. 7.1. See also general comment No. 20 (1992), para. 14.

6.5 In line with its jurisprudence, the Committee reaffirms its position that the burden of proof cannot rest solely on the author of the communication, especially considering that the State party alone has access to some of the relevant information.[22] In the absence of any rebuttal statements or any comments from the State party on these facts, the Committee gives due weight to the author's contentions, which raises a strong presumption of direct participation of the State party in the violation of his brother's right to life, in violation of article 6 of the Covenant.

6.6 Concerning the author's allegations that the grave injuries found on his brother's body were consistent with the evidence of the eyewitness who reported that the victim had been beaten all over his body by the police officers and that his head had been struck heavily against the police van, and in the absence of a response from the State party in that regard, the Committee gives due weight to the author's claims, and finds a violation of his brother's rights under article 7 of the Covenant.

6.7 The Committee also notes the author's allegations that the State party could not demonstrate that the arrest of the victim had been "reasonable" or "necessary" in the circumstances. It also notes that the toxicology report showed that there had been no alcohol in the blood system of the victim and that no evidence was provided to support the police officer's allegation that the victim had been drunk and obstructing traffic at the time of arrest. In the absence of a clarification on the part of the State party as to the grounds of the author's brother's detention, the Committee finds a violation by the State party of article 9 of the Covenant.

6.8 The author also invokes article 2 (3) of the Covenant, whereby all States parties have the obligation to ensure that any person whose rights under the Covenant are violated has an effective remedy. The Committee attaches importance to the establishment by States parties of appropriate judicial and administrative mechanisms to consider complaints of rights violations. It recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which stipulates that a failure by a State party to investigate allegations of violations could, in and of itself, give rise to a separate breach of the Covenant.

6.9 The Committee notes that nearly seven years after the death of the victim, the author still does not know the circumstances surrounding his brother's death and the State party's authorities have yet to carry out a full and independent investigation.[23]

6.10 In that connection, the Committee notes the author's submission that the Attorney General, through its decision not to press charges against the accused police officers in spite of the evidence supporting the continuation of the investigation and prosecution, interfered with the inquiry led by the magistrate. The Committee also notes the author's submission that, on 3 June 2011, the Court of Appeal ordered an interim stay of the proceedings before the magistrate until its final determination and the unconditional release of the two police officers, and that neither the author nor the magistrate were present at the hearing. The Committee further notes that the case was still pending before the Court of Appeal as at 21 April 2017.[24] The Committee therefore considers that the State party failed to investigate properly the detention, torture and death of the author's brother, to prosecute the perpetrators and ensure redress, thereby violating the author's and his brother's rights under article 2 (3), read in conjunction with articles 6, 7 and 9 of the Covenant.

7. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it discloses a violation by the State party of articles 6, 7 and 9, read alone and in conjunction with article 2 (3).

8. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. This provision requires that

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[22] See, for example, *Belamrania v. Algeria* (see note 20 above), para. 6.5; and communication No. 1832/2008, *Al Khazmi v. Libya*, Views adopted on 18 July 2013, para. 8.2.

[23] See, for example, communication No. 1619/2007, *Felipe and Evelyn Pestaño v. The Philippines*, Views adopted on 23 March 2010, para. 7.5.

[24] See paragraph 2.21 above.

States parties make full reparation to individuals whose Covenant rights have been violated. In the present case, the State party is under the obligation, inter alia, to: (a) conduct a thorough and effective investigation into the facts submitted by the author; (b) prosecute, try and punish those responsible for the author's brother's arbitrary arrest, ill-treatment and death, and make the results of such measures public; and (c) provide adequate compensation and appropriate measures of satisfaction to the author for the violations suffered. The State party is also under an obligation to take steps to prevent similar violations in the future. In particular, the State party should ensure that its legislation complies with the provisions of the Covenant.

9. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views.